

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

COMMONWEALTH OF  
PENNSYLVANIA,

Plaintiff,

v.

ANTONELLO BOLDRINI,

Defendant.

No. 3:23-CV-01277

(Chief Judge Brann)

(Magistrate Judge Saporito)

**ORDER**

**SEPTEMBER 26, 2023**

Antonello Boldrini filed a notice of removal to federal court of a criminal prosecution brought against him by the Commonwealth of Pennsylvania in the Magisterial District Court for Luzerne County.<sup>1</sup> On August 2, 2023, Magistrate Judge Joseph F. Saporito, Jr. issued a Report and Recommendation recommending that this Court summarily remand the matter to state court, as the complaint makes clear that there is no basis upon which the criminal matter may be removed to federal court.<sup>2</sup> Boldrini has received several extensions of time to file objections to the Report and Recommendation; rather than file objections, he has instead requested a stay for the United States Court of Appeals for the Third Circuit to rule on his interlocutory appeal, over which the Third Circuit would not have jurisdiction.<sup>3</sup>

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<sup>1</sup> Doc. 1.

<sup>2</sup> Doc. 2.

<sup>3</sup> See Docs. 7, 8, 10, 13, 14.

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.<sup>4</sup> Conversely, “[i]f a party objects timely to a magistrate judge’s report and recommendation, the district court must ‘make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’”<sup>5</sup> Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge’s findings or recommendations.<sup>6</sup> Even reviewing the record *de novo*, the Court finds no error in Magistrate Judge Saporito’s conclusion that the complaint makes clear on its face that removal of the criminal prosecution to federal court is not permissible. Consequently, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Joseph F. Saporito, Jr.’s Report and Recommendation (Doc. 2) is **ADOPTED**;
2. Boldrini’s motion to correct his original filing (Doc. 4) is **DENIED**;
3. Boldrini’s putative request for a stay (Doc. 14) is **DENIED**;

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<sup>4</sup> Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

<sup>5</sup> *Equal Emp’t Opportunity Comm’n v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)).

<sup>6</sup> 28 U.S.C. § 636(b)(1); Local Rule 72.31.

4. This matter is summarily **REMANDED** to the Magisterial District Court for District 11-1-04 of Luzerne County, where it is docketed as *Commonwealth v. Boldrini*, No. MJ-11104-CR-0000215-2023; and
5. The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:

*s/ Matthew W. Brann*

Matthew W. Brann

Chief United States District Judge